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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/505,821	02/17/2000	Victor Leroy Babbitt	391331	7737

7590 06/21/2005

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EXAMINER	
ARANI, TAGHI T	
ART UNIT	**PAPER NUMBER**
2131	

DATE MAILED: 06/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/505,821	BABBITT ET AL.	
	Examiner	Art Unit	
	Taghi T. Arani	2131	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 April 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13 and 15-24* is/are pending in the application.

4a) Of the above claim(s) *1-12 and 22-24* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *13, 15-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-12, 22-24* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-13, 15-24 were originally pending.

Claims 13, 15-21 are elected with traverse.

Claims 13, 15-21 have been examined.

Claims Stand Withdrawn With Traverse

Claims 1-12 and 22-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention I, there being no (allowable) generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 4/06/2005.

As per applicant's arguments relating to the restriction requirement, the applicant states that the all the independent claims in the application require the use of a program storage medium, and so claims 1 and 13 are generic to both group I and Group II (page 6, REMARKS).

The Examiner responds that where a combination as claimed does not set forth the details of the subcombination as separately claimed and the subcombination has separate utility, the inventions are distinct and restriction is proper if reasons exist for insisting upon the restriction; i.e., separate classification, status, or field of search MPEP 806.05(c). That is, the specific characteristic of the storage medium of group II is broadly recited in the electronic voting system of group I. Since claims to both the subcombination and combination are presented and assumed to be patentable, the omission of details of the claimed subcombination in the combination claim is evidence that the patentability of the combination does not rely on the details of the specific subcombination.

Therefore, the restriction is proper under U.S.C. 121 and the elected group II, claims 13, 15-21 have been examined.

Response to Amendment

Applicant's arguments filed 8/3/204 regarding the rejection of the claims 13, 15-21 under 35 U.S.C. 102(e) and 103 (a) have been fully considered but they are not persuasive.

As per applicant's arguments relating to the rejection of claim 13-19, the Applicant argues that the Examiner's reference to the Brundridge's teaching of device driver verification is unwarranted because diagnostics (referring to IEEE dictionary) pertain to hardware faults, not driver problems (REMARKS, page 9).

The Examiner responds that Brundridge expressly states that the method or technique for loading and running GUI functionality "enables execution of hardware and software diagnostics written to run under the DOS and Windows operating systems platforms. The technique is further useful for designing a database for driver tracking and updating", col. 5, line 54 through col. 6, line 7. That is, designing database for driver tracking and updating constitute identifying and verifying system device drivers as recited in claim 13.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites the limitation " the read only storage medium" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim. For purpose of applying art, the Examiner assumes " the storage medium".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 13, 15-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Brundridge, US Pat. No. 6,279,109, filed Jan 1999.

As per claims 13 and 15, Brundridge teaches a computing system and operating method executable on a target processor (i.e. voter client) which bootstrap loads and run an application program or interface (such as executable program instructions) from an alternative medium, for example a CD-ROM medium or via network link, see abstract.

Brundridge's method bootstrap loads and runs interface (GUI) from a CD-ROM medium when an operating system associated with the application program or interface is not installed on the target computer (i.e. expecting device driver), see col. 4, lines 22-33.

Brundridge's bootable CD-ROM enables a user to run an application program or graphical user interface to perform operations including running diagnostics and executing system setup. That is, verifying system device drives to assure that the drivers are not corrupted.

As per claims 16-19, Brundridge teaches that in building bootable operating system compact disk (CD) a file management tools is used to move files that are to be accessed from a CD-ROM to another directory structure so that the underlying registry of the operating system is appropriately modified, see col. 6, lines 19-58, and that the moved files are substantially recorded onto a CD-ROM medium to create a bootable CD-ROM.

That is, Brundridge teaches creating and copying the system directory to an alternative directory (startup disk) which creates an operating system image that is subsequently transferred to an alternative medium (CD). That is, after the operating system elements are copied to the alternative directory, unnecessary directories and files are removed leaving virtual device drivers, DLLs, registry files and desired executable that are required on a read/writeable media (i.e. a floppy start up disk) by designation of operating system design, see col. 8, lines13-47, see also col. 10, lines 11-32.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 20-21 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Brundridge, US Pat. No. 6,279,109, filed Jan 1999 and further in view of " A Report on the Feasibility of Internet Voting", California Internet Voting Task Force, issued January 2000.

Brundridge's bootable operating system compact disk (CD) is suitable for bootstrap loading of a first operating system on a processor (such as voter client) even

though the processor is running a second operating system that does not allow writing to persistent storage by the first operating system.

The examiner asserts that it would have been an obvious choice to use Brundridge's bootable CD in a voter client to provide voters with a single-use clean operating system and web browser for voting in a remote internet voting from any internet connection, see California Internet Voting Task Force, Page 14.

It would have been further obvious to one of ordinary skill in the art to place the program instructions on a read only medium configured to bootstrap loads the voter's PC, because potential attacks on computer software, such as destructive "viruses" or "Trojan horse" software, create a serious threat to Internet voting and that unique operating system and web browser (i.e. an exclusive program instructions) software would minimize the potential technological threats to internet voting, see California Internet Voting Task Force, Page 4 under Technical Issues.

Action is Final

THIS ACTION IS FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the

advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Taghi T. Arani whose telephone number is (571) 272-3787. The examiner can normally be reached on 8:00-5:30 Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

T. A.

Taghi T. Arani, Ph.D.
Examiner
Art Unit 2131
6/15/05

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